



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 6, 1998

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-0026

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111711.

The City of Houston (the "city") received a request for "[a]ny and all documents submitted by two companies, Dogon Enterprises and 4As Food Services, for MWDBE certification by the city of Houston." You contend that the requested documents are excepted from disclosure pursuant to section 552.127 of the Government Code. You also request "a ruling that a request for an opinion from the Attorney General is . . . not necessary when an exception under section 552.127 clearly applies." We have considered your arguments and reviewed the documents at issue.

The Seventy-fifth Legislature amended the Open Records Act by adding section 552.127 of the Government Code. Act of May 20, 1997, H.B. 625, 75th Leg., R.S. Section 552.127 provides:

(a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from [required public disclosure], except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

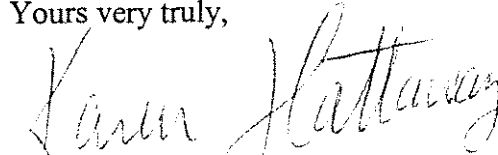
(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

You explain that the Affirmative Action and Contract Compliance Division of the Mayor's Office has the responsibility for certifying businesses as minority and women business enterprises. You state that the requested documents were submitted to the city as part of the certification process. Subsections (b) and (c) of section 552.127 are not applicable in this situation. Therefore, we conclude that the requested documents are excepted from disclosure under section 552.127(a) of the Government Code.

We decline to issue the city a prior determination regarding section 552.127 of the Government Code. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 111711

Enclosures: Submitted documents

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